

ORDERS FOR THURSDAY,
FEBRUARY 1, 2001

Mr. ALLEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9 a.m. on Thursday, February 1. I further ask consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the nomination of John Ashcroft to be Attorney General, as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ALLEN. Tomorrow the Senate will resume debate on the Ashcroft nomination at 9 a.m. under the order. Closing remarks will be made throughout the morning. Senators should be aware that a vote on confirmation will occur at 1:45 p.m. Following the final confirmation of the President's Cabinet, the Senate is expected to adjourn in an effort to accommodate those participating in the party retreats taking place tomorrow afternoon and into the weekend.

ORDER FOR ADJOURNMENT

Mr. ALLEN. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order, following the remarks by the Senator from Florida, Mr. GRAHAM.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida.

NOMINATION OF JOHN ASHCROFT

Mr. GRAHAM. Mr. President, the position of United States Attorney General is the most sensitive in the executive branch.

I have made a practice of setting a different standard for approval of persons nominated to serve in the president's cabinet and those the president has chosen for federal judgeships.

In the former instance, there is a very strong presumption that the president should have the right to choose whomever he feels would effectively carry out his administration's policies.

With a federal judge nominee, that presumption is lessened. Federal judges serve not at the pleasure of the president, but rather for a lifetime and represent the third, equal branch of government.

I place the appointment of an attorney general in between these two standards because of the office's unique role.

The attorney general has far more autonomy than does any other cabinet

head. The attorney general decides when and how to take legal action and use government resources supplied by taxpayer dollars.

Attorneys general do not just enforce the law. They have broad discretion to interpret the law, then enforce it based on that interpretation. Traditionally, the attorney general does not attend political functions or otherwise engage in partisan politics to preserve the appearance of neutrality.

Rarely does the president interfere in the realm of the attorney general—a notable exception being when Attorney General Elliot Richardson resigned to avoid complying with President Nixon's order to fire the special prosecutor investigating the Watergate burglary. More often, the president consults the attorney general for legal counsel and follows that advice. The attorney general's interpretations then become government policy.

Interpretation of a law by a United States attorney general has been responsible for some of this country's proudest moments, and some of its most shameful. It was a United States attorney general, in the cabinet of President Martin Van Buren, who argued that the men and women who had rebelled against their slave masters on the Spanish ship *Amistad*, were property and should be returned to captivity.

It was also the interpretation of civil rights statutes that led Attorney General Robert Kennedy to use federal troops to desegregate schools. Kennedy also chose to use the government's resources to ensure the right of African-Americans to vote—filing more than 50 law suits in four states that were resisting change.

In large part because of this legacy, the attorney general has come to be seen as the primary defender of individuals' basic civil rights.

Because of this protective role, and because of the discretionary nature of the job, the attorney general must be a person who commands the respect of all people in the country. That doesn't mean that everyone has to agree with everything the attorney general has done in the past.

But the attorney general must be able to carry out the covenant with America that comes with the job—the agreement to look at the law with an unbiased eye and enforce it without personal or political prejudice.

I submitted questions to Senator Ashcroft to help me ascertain his level of commitment to that covenant. Specifically, I am concerned about the investigation by the Department of Justice Civil Rights Division into allegations of discrimination in the November 7, 2000 election in Florida. These are serious allegations. These are not about chads, or butterflies or any of the other arcane voting terms that have made their way into the wider American lexicon. These are about Americans and their fundamental rights. These must be investigated by

someone who has the trust and confidence of the public.

Investigations are now being conducted by the Department of Justice's Civil Rights division and the United States Commission on Civil Rights.

The focus of these investigations is to determine whether these individual acts, which denied citizens the right to vote, were just that—individual acts of incompetence and inefficiency—or whether they represented a conscious pattern intended to deny thousands of Floridians the right to vote.

Allow me to share a few of the allegations. Donnise DeSouza, a Miami attorney, wanted to teach her 5-year-old son about democracy by letting him punch her ballot. Instead she was told her name was not on the proper list, and was sent home without having cast a vote.

Ernest Duval is a Haitian American who lives in Palm Beach County. He, like many others, found the ballot layout confusing. He punched the wrong hole, recognized his mistake, and asked for a new ballot. His request was denied. He was left with no choice but to repunch the original. His ballot became an official "overvote" and was discarded. He told the NAACP "I left Haiti for the freedom to live in a free land. We have the right to choose the right person."

Radio host Stacey Powers visited polling sites to encourage African-American voters and saw police officers harassing an elderly African-American man for doing nothing more than being in the neighborhood. After she reported it on the air, a police car followed her for five and a half miles.

These were not just the complaints of a few disenfranchised or intimidated voters. In an operation of this scale, reasonable people recognize that unfortunate mistakes will happen. But on Election Day, complaints came from every corner of the state.

Voters in the City of Plantation were never notified that their polling place, Plantation Elementary School, had been demolished two weeks before Election Day. Reports were made of police officers' blocking roads in close proximity to polling places and of minority voters being forced to show identification that white voters didn't need to have. Phones in a number of minority precincts were not working, leaving precinct workers unable to call central election offices for help with broken machines and other problems.

Just as troubling was the information that came out after the election. Statistical analyses by civil rights groups and news organizations suggest that outdated or dilapidated voting equipment was most likely to be found in areas with a high concentration of minority voters. And so it followed that minorities were far more likely to have their votes thrown out than were white Florida voters.

The question that remains is whether these were isolated, though widespread